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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,738	02/04/2002	Ramesh Keshavaraj	2102REI	4100

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MILLIKEN & COMPANY
920 MILLIKEN RD (M-495)
PO BOX 1926
SPARTANBURG, SC 29304

EXAMINER	
SINGH, ARTI R	
ART UNIT	**PAPER NUMBER**
1771	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/066,738	KESHAVARAJ, RAMESH	
	Examiner	Art Unit	
	Ms. Arti Singh	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1,2,6-21,25,28,29,32,33,36,37 and 40-43 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1,2,6-21,25,28,29,32,33,36,37 and 40-43 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed on 09/15/2004 with the RCE. The supplemental Declaration has also been entered. Claims 1, 21 and 40 have been amended to recite that the cover factor is now below 1600 and in claim 40 that the denier is also less than 525. All of these amendments have also been entered. All previously made rejections are now withdrawn as Applicant's has amended the independent claims to be outside the range of the cited prior art of Moriwaki USPN 5989660. Currently, the pending claims are 1, 2, 6-21, 25, 28, 29, 32, 33, 36, 37 and 40-43; all other claims have been cancelled.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 2, 6-21, 25, 28, 29, 32, 33, 36, 37 and 40-43 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is a laundry list of errors under this section so the Examiner is just going to bullet them in a list;

- Claim 6 depends from a cancelled claim 5. Please correct the dependency of this claim and any that depend from it, in this case Claims 7-9;
- Claim 8 and 9 are not necessary as they do not further limit the preambular language of independent claim 1, which states, "An airbag fabric for incorporation within an airbag cushion";
- Claim 10 is not needed as the same limitations are claimed in claim 6;
- Claim 11 is also not needed as the same limitations have already been claimed;

- Claim 12 and 13 are not necessary as they do not further limit the preambular language of independent claim 1, which states, "An airbag fabric for incorporation within an airbag cushion";
- Claim 14 depends from cancelled claim 3 and provides no new limitation that haven't been already claimed; additionally, please correct the dependency of this claim and any that depend from it, in this case Claims 15-20;
- There is no need for claims 29, 32, 33, 36 and 37 as they bring no new limitations that haven't been already claimed;
- In claims 42 and 43, they claim a cover factor range that is outside the range of 1600 as is sought in independent claim 40.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 2, 6-21, 25, 28, 29, 32, 33, 36, 37 and 40-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Parker US 2002/0065367 A1.

The applied reference has a common Assingee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Parker teaches a new adhesive coating that is used in airbag fabrics. His inventive coating may be used on any fabric substrate and maybe a siloxane, acetate or acrylate (page 1, paragraph [0007]). He uses a woven plain weave fabric having a denier of about 210 to 630 denier (page 2, first column paragraph [0011]. In Example 1 the patentee teaches a coated 420 D nylon which has a dry coating weight of 1.0 ounces per square yard. The composite as a whole yields an air permeability of 0 cfm at 124 Pa (paragraph [0018]). It should be noted that cover factor although not specifically disclosed must be inherent to the article. The Examiner takes this position because the property limitations are met by being a woven coated fabric having the exact denier range and exhibiting the same or lack of permeability, therefore it would be inherent that the cover factor of the fabric is also with Applicant's claimed range of below 1600.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 2, 6-21, 25, 28, 29, 32, 33, 36, 37 and 40-43 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 5470106 issued to Nishimura et al.

Nishimura et al disclose in a nutshell a woven fabric used in airbag fabrication. Said fabric has a yarn thickness of 150-550 deniers (column 8), and a cover factor of 1,050 to 1400 (column 10) and is composed of polyester and or aramid fibers (column 8). Patentee coats one side of their airbag with a resin coating (column 8). Nishimura et al do not coat their fabric with polyurethane, polyacrylate, polyamide, polyester or combinations thereof.

However a person having ordinary skill in the art at the time the invention was made would have found it obvious to employed polyurethane, polyacrylate, polyamide, polyester or combinations thereof as the coating in their airbag fabric, motivated by the reasoned expectation that all of these are cheaper and readily available in comparison to Silicone rubber which are found to the older more expensive technology.

Further, with regard to the limitation of air permeability it is reasonable to presume that the invention of Nishimura et al. would inherently anticipate the physical properties of the present invention, since both inventions are comprised of an airbag fabric comprised of a woven polyamide substrate adhered or coated with film, wherein the yarns have a linear density of 150 to 550 denier, and the fabric has a cover factor of 1,050 to 1400.

Furthermore, as no other structural or chemical features are claimed which may distinguish the present invention from that of the Nishimura et al. invention, the presently claimed physical properties of air permeability is deemed to be inherent to the invention of Moriwaki et al. The burden is upon Applicant to prove otherwise. Note *In re Fitzgerald 205 USPQ 495*. In addition, the presently claimed property of air permeability would obviously have been present once the Nishimura et al. product was provided. Not In re Best, 195 USPQ 433, footnote 4 (CCPA 1977).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-F 9-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ms. Arti Singh
Primary Examiner
Art Unit 1771

Ars 11/2004